

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT NASHVILLE

JOHNNY L. MCGOWAN, JR. v. STATE OF TENNESSEE

Appeal from the Circuit Court for Rutherford County
No. F-27902 Don R. Ash, Judge

No. M2008-00530-CCA-R3-PC - Filed July 11, 2008

The Petitioner, Johnny L. McGowan, Jr., appeals from the trial court's dismissal of his petition for a writ of error coram nobis. The State has filed a motion requesting that this Court affirm the trial court's denial of relief pursuant to Rule 20, Rules of the Court of Criminal Appeals. We grant the State's motion and affirm the judgment of the trial court.

Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Circuit Court Affirmed Pursuant to Rule 20, Rules of the Court of Criminal Appeals

DAVID H. WELLES, J., delivered the opinion of the court, in which JERRY L. SMITH and ROBERT W. WEDEMEYER, JJ., joined.

Johnny L. McGowan, Jr., Pro Se.

Robert E. Cooper, Jr., Attorney General and Reporter; Lacy Elaine Wilber, Assistant Attorney General; and William C. Whitesell, Jr., District Attorney General, for the appellee, State of Tennessee.

MEMORANDUM OPINION

In 1994, the Petitioner pleaded guilty to and was found guilty of the offense of arson. In 2008, the Petitioner filed a petition for a writ of error coram nobis seeking relief from his 1994 arson conviction. The trial court summarily dismissed the petition both because it did not state proper grounds for error coram nobis relief and also because it was barred by the one-year statute of limitations for seeking a writ of error coram nobis. It is from the order dismissing his petition that the Petitioner appeals.

As grounds for relief, the Petitioner asserted that his conviction was void because the grand jury illegally indicted him for a crime other than the crime which had been bound over to the grand jury. The Petitioner asserts that this legal argument attacking the action of the grand jury constitutes "newly discovered and subsequent evidence."

We conclude that the trial court correctly dismissed the petition. We see no need for further analysis. We conclude that the Petitioner's argument is totally without merit.

We therefore grant the State's motion and affirm the judgment of the trial court pursuant to Tennessee Court of Criminal Appeals Rule 20.

DAVID H. WELLES, JUDGE